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10/656,699	09/04/2003	Loren R. Graber	20794-82667	8589

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Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

EXAMINER

SPAHN, GAY

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/656,699

Applicant(s)

GRABER ET AL.

Examiner

Gay Ann Spahn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-10,12,13,16,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-10,12,13,16,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Dictionary.com's definition of "seams".

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 January 2007 has been entered.

Drawings

The drawings were received on 03 January 2007 and are acceptable to the examiner.

However, the examiner notes that on the top of the one sheet of drawing changes, Applicants put the label "Replacement **Drawing**" (emphasis added). This is incorrect according to 37 C.F.R. 1.121(d) which states that amended sheets of drawings should be labeled with the legend "REPLACEMENT **SHEET**" (emphasis added).

Claim Objections

Claims 7 and 8 are objected to because of the following informalities:

(1) claim 7, line 2, the recitation of "the connector's interference fits" is grammatically incorrect and the examiner suggests that "connector's" be changed to

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--connector-- similar to as is done in claim 13; and

(2) claim 8, line 19, after the word "removed", a comma punctuation mark (i.e., --,--) should be inserted and the second occurrence of the word "is" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-10, 12, 13, 16, 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 8, lines 17-18, (and claims 9, 10, 12, 13, 16, 18, and 19 either directly or indirectly dependent thereon), the recitation of "a panel section on the longitudinally extending floor identifiable by a plurality of seams that is selectively removable from the floor" (emphasis added) constitutes new matter as not supported by the original disclosure since only a single seam (66 in Fig. 7) was originally disclosed and the common and not common perforated edges that make up the removable portions (52, 54, 56, and 58 in Fig. 7) are not "seams" as per the conventional definition thereof (see

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attached one sheet from <http://dictionary.reference.com/browse/seams> which defines the word "seams" as "a line of junction formed by sewing together two pieces of material along their margins; a similar line, ridge, or groove made by fitting, joining, or lapping together two sections along their edges; a suture; a scar, a line across a surface, as a crack, fissure, or wrinkle; or a thin layer or stratum, as of coal or rock.").

The examiner notes that the recitation of "the seam of the panel section" or "seams" in **claim 12**, line 2, and the recitation of "a plurality of seams . . ." in **claim 18**, lines 3-6 also constitutes new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 6, 7-10, 12, 13, 16, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 21, the recitation of "another channel liner apparatus" is vague, indefinite, and confusing as lacking antecedent basis and the examiner suggests deleting the word "apparatus".

Claim 1, line 27, the recitation of "another longitudinally-extending receptacle" is vague, indefinite, and confusing as lacking antecedent basis because it is not clear if this is one of the longitudinally-extending receptacles introduced in lines 7-8 or if it is in addition to those longitudinally-extending receptacles already recited.

Claim 3, lines 2-6, the recitation of "a connector having a first portion that is configured to be partially fitted in the first transverse opening of the first longitudinally-extending receptacle and having a second portion that is configured to be partially fitted in another longitudinally-extending receptacle through its first transverse opening" (emphasis added) is vague, indefinite, and confusing as lacking antecedent basis. Although claim 1, lines 7-8, introduces longitudinally-extending tubular receptacles on each longitudinally-extending edge, no "first longitudinally-extending receptacle" has been designated so that it is not clear if the recitation of "the first longitudinally-extending receptacle" refers back to the receptacles recited in claim 1 or is in addition thereof. The same goes for the recitation of "another longitudinally-extending receptacle" (i.e., is it the same "another longitudinally-extending receptacle" recited on line 27 of claim 1 or is it in addition thereto?).

Claim 6, line 1, the recitation of "The landscaping channel liner of Claim 4" is vague, indefinite, and confusing since claim 4 has been canceled.

The examiner notes that with respect to the merits thereof, claim 6 will be treated as if dependent upon claim 1.

Claim 8, line 13, the recitation of "a connector engaged with the receptacle" is vague, indefinite, and confusing as lacking antecedent basis since in lines 9-10 more than one receptacle has been introduced so that it is not know which of the receptacles the connector is engaging.

Claim 8, lines 17-18, the recitation of "a panel section on the longitudinally extending floor identifiable by a plurality of seams that is selectively removable from the

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floor" (emphasis added) is vague, indefinite, and confusing since the only "seam" that has been disclosed is shown in Fig. 7, by reference numeral "66" and the common and not common perforated edges that make up the removable portions (52, 54, 56, and 58 in Fig. 7) are not "seams" as per the conventional definition thereof. While Applicants are allowed to be their own lexicographer, they cannot use words in a manner that goes against the common everyday meaning of the term.

Claim 10, line 3, the recitation of "the channel liner apparatus" is vague, indefinite, and confusing for lacking antecedent basis and the examiner suggests deleting the word "apparatus".

Claim 12, line 1, the recitation of "The landscaping channel liner apparatus of Claim 11" is vague, indefinite, and confusing for lacking antecedent basis (i.e., the examiner suggests deleting the word "apparatus") and because claim 11 has been canceled (i.e., the dependency of the claim must be changed).

The examiner notes that with respect to the merits thereof, claim 12 will be treated as if dependent upon claim 8.

Claim 12, line 2, the recitation that "the seam of the panel section is perforated" is vague, indefinite, and confusing as lacking antecedent basis since claim 8 recites that a plurality of seams form the panel section and therefore, it is not known which single seam of the plurality of seams is being referred to. The recitation is further vague, confusing and indefinite since a "seam" is not perforated according to the common, everyday meaning of the word "seam".

Claim 13, line 2, the recitation of “the connector interference fits in the receptacle” is vague, indefinite, and confusing as lacking antecedent basis since it is not know which of the more than one receptacle that the connector is interference fitting with.

Claim 18, lines 3-4, the recitation that “the panel section includes a plurality of interior panel sections each defined by a plurality of seams” is vague, indefinite, and confusing because the plurality of interior panel sections (removable portions 52, 54, 56, 58) are defined by perforated edges (see specification, page 9, lines 8-11), not seams. Further, it is not clear how one is to distinguish between the plurality of seams forming the panel section and the plurality of seams forming the interior panel sections and what the different is between them or if there is any difference (i.e. if no difference, then should not be recited twice).

Claim 18, lines 4-6, the recitation of “a longitudinally extending seam portion from a seam from each interior panel section forms a coincident seam with one of the seams from the panel section” is vague, indefinite, and confusing for lack of antecedent basis (i.e., it is not clear if “a seam” from each interior panel section refers back to the plurality of seams defining the plurality of interior panel sections or is in addition thereto) and since the wording of this claim does not appear to make sense. Is the longitudinally extending seam portion and the coincident seam the same thing?

Claim 19, lines 2-3, the recitation that “the longitudinally-extending floor comprises a seam extending from the first transverse open end to the coincident seam” (emphasis added) is vague, indefinite, and confusing as lacking antecedent basis

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because it is not clear if "a seam" refers back to the seams recited in claim 18 or is in addition thereto. Further, the seam (66) is not really a seam according to the dictionary definition of the word "seam". Although Applicants are allowed to be their own lexicographer, they cannot use words in a way that goes against the common, everyday meaning of the terms.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over BLATTERT (German Patent Application Publication No. DE 35 15 654 A1) in view of REUM ET AL. (U.S. Patent No. 4,761,923).

As to claim 1 (and as best understood despite the 35 U.S.C. § 112 second paragraph indefiniteness discussed above), BLATTERT discloses a landscaping channel liner (10 in Fig. 1) comprising:

a longitudinally-extending trough (formed by sidewalls 12 and 13 and floor 11) having a longitudinally-extending floor (11) located between opposed longitudinally-extending sidewalls (12, 13) extending therefrom, and having first and second opposed transverse open ends (at left and right ends of 10 in Fig. 1) formed from the floor (11) and sidewalls (12, 13);

wherein each of the sidewalls (12, 13) defines a longitudinally-extending edge (where 14 and 15 meet 12 and 13, respectively) located opposite the longitudinally-extending floor (11);

a longitudinally-extending tubular receptacle (14, 15) that is located on each longitudinally-extending edge (where 14 and 15 meet 12 and 13, respectively), wherein the edge (where 14 and 15 meet 12 and 13, respectively) is located between the receptacle (14, 15) and sidewall (12, 13), and each receptacle (14, 15) having first and second transverse openings (at left and right ends of 14 and 15) having a cylindrical cross-section (see Fig. 1);

wherein the second transverse opening of each receptacle (14, 15) extends to the transverse open end formed from the floor (11) and sidewalls (12, 13);

wherein the first transverse opening of one of the longitudinally-extending receptacles (14 or 15) is configured to face the second transverse opening of another longitudinally-extending receptacle (14 or 15); and

wherein the first transverse opening of one of the longitudinally-extending receptacles (14 or 15) is connectable with the second transverse opening of another longitudinally-extending receptacle (14 or 15).

BLATTERT fails to explicitly disclose that the first transverse opening of each receptacle terminates short of the first transverse open end formed from the floor and sidewalls, such that a portion of the edge extends between the first transverse opening and the first transverse open end; wherein a portion of the floor and sidewalls located adjacent the first transverse open end is configured to overlap a portion of the floor and

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sidewalls located adjacent the second transverse open end of another channel liner apparatus.

REUM ET AL. discloses a landscape edging apparatus (Figs. 19-21 embodiment) having sidewalls (body 13 excluding tubular top rail 14) which each have a receptacle (14) on longitudinally-extending edges (where sidewalls meet 14) thereof, wherein the first transverse opening (left-most end of right-most 14 of Fig. 1) of the receptacle (14) terminates short of the end of the sidewall (see right-most 11 in Fig. 1), such that a portion of the edge (above 16a in right-most 11 of Fig. 1) extends between the first transverse opening (left-most end of right-most 14 of Fig. 1) and the first transverse open end (left of 16a, 16b, 16c or right-most 11 in Fig. 1), and wherein a portion of the sidewalls (16a, 16b, 16c of right-most 11 in Fig. 1) located adjacent the first transverse open end is configured to overlap a portion of the sidewalls (15a, 15b, 15c of right end of left-most 11 in Fig. 1) located adjacent the second transverse open end of another channel liner apparatus.

The examiner notes that Applicants' claim 1 only positively recites a single landscaping channel liner (i.e. "another channel liner apparatus recited in the last line of the claim is only part of intended use language and not positively recited). Therefore, it is the examiner's position that if the receptacles (14, 15) of the channel (10) of Fig. 1 of BLATTERT were modified by terminating either the left or right ends of the receptacles (14, 15) prior to the corresponding left or right ends of the longitudinally-extending sidewalls (12, 13) as taught by REUM ET AL., then the resulting landscape channel liner from the combination of BLATTERT in view of REUM ET AL. would inherently or

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necessarily be capable of performing the intended use of overlapping or nesting the floor in addition to the sidewalls.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner of BLATTERT by replacing the connection system of BLATTERT (i.e., Fig. 3 of BLATTERT shows a connector 32 which functions to connect two of the landscaping channel liners 10, 10 of Fig. 1 in end-to-end abutment) with the connection system of REUM ET AL. (i.e., interlockingly nestable sidewalls 13, 13, cut-out portions of receptacles 14, 14, and interference fit fluid connector 71) in order to be able to provide a simpler to assemble and more cost efficient connection system having less parts and to provide a more secure connection system between adjacent channel liners so that there is less chance of separation at abutted ends (see REUM ET AL., col. 5, lines 37-44 which teaches the desirability of nesting the end portions of the sidewalls to facilitate installation and co-axial alignment of mating sections), while still maintaining the spraying water function of BLATTERT (see water outlets 16 in Fig. 1).

As to claim 3 (and as best understood despite the 35 U.S.C. § 112 second paragraph indefiniteness discussed above), BLATTERT in view of REUM ET AL. discloses the landscaping channel liner of claim 1 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT and REUM ET AL. also discloses a connector (71 of REUM ET AL.) having a first portion (right half of 17 in Figs. 19-20 of REUM ET AL.) that is configured to be partially fitted in the first transverse opening (end of 14 of right-most 11 of Figs. 19-20 of REUM ET AL.) of the

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first longitudinally-extending receptacle (right-most 14) and having a second portion (left half of 71 of REUM ET AL.) that is configured to be partially fitted in another

longitudinally-extending receptacle (right end of leftmost 11 of Fig. 1 of REUM ET AL.) through its first transverse opening.

As to claim 7 (and as best understood despite the 35 U.S.C. § 112 second paragraph indefiniteness discussed above), BLATTERT in view of REUM ET AL. discloses the landscaping channel liner of claim 3 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT and REUM ET AL. also discloses that the connectors (71 of REUM ET AL.) interference fits in the respective longitudinally-extending receptacles.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over BLATTERT (German Patent Application Publication No. DE 35 15 654 A1) in view of REUM ET AL. (U.S. Patent No. 4,761,923), as applied to claim 4 [sic - treated as if dependent upon claim 1] above, and further in view of THOMAS (U.S. Patent No. 5,315,780).

As to claim 6 (and as best understood despite the 35 U.S.C. § 112 second paragraph indefiniteness discussed above), BLATTERT in view of REUM et al. discloses the landscaping channel liner of claim 4 [sic - treated as if dependent upon claim 1] as discussed above.

Neither BLATTERT nor REUM et al. explicitly disclose spikes that extend from at least one of the sidewalls.

THOMAS discloses a landscape edging apparatus (10 in Figs. 1-4, or 100 in Fig. 5) having spikes (20) extending from at least one of the sidewalls.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner of BLATTERT in view of REUM et al. to include spikes through the sidewall as taught by THOMAS in order to provide surer anchoring of the landscaping channel liner in the ground.

Claims 8-10, 12, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over BLATTERT (German Patent Application Publication No. DE 35 15 654 A1) in view of REUM ET AL. (U.S. Patent No. 4,761,923) and MASON, III (U.S. Patent No. 5,379,558).

As to claim 8 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT discloses a landscaping channel liner (10 in Fig. 1) comprising:

a longitudinally-extending trough (formed by sidewalls 12, 13 and floor 11) having a longitudinally-extending floor (11) located between opposed longitudinally-extending sidewalls (12, 13) extending therefrom, and having first and second opposed transverse open ends formed from the floor (11) and sidewalls (12, 13);

wherein the longitudinally extending floor (11) is configured to be supported, by ground in a channel, along its length;

wherein each of the sidewalls (12, 13) defines a longitudinally-extending edge (wherein 14, 15 meet 12, 13 respectively) located opposite the longitudinally-extending floor (11);

a longitudinally extending receptacle (14, 15) located on each of the longitudinally-extending edges (wherein 14, 15 meet 12, 13 respectively); and

a connector (34 or 35 in Fig. 3) engaged with the receptacle (14, 15), extending therefrom and located over, spaced apart from and positioned substantially parallel to the longitudinally-extending edge (wherein 14, 15 meet 12, 13 respectively).

BLATTERT fails to explicitly disclose: (1) that the longitudinally extending receptacle terminates prior to termination of the longitudinally extending edge; and

(2) a panel section on the longitudinally extending floor identifiable by a plurality of seams that is selectively removable from the floor, wherein when the panel section is removed, the resulting opening in the floor is configured to receive a fence post which extends through the opening.

REUM ET AL. discloses a landscaping apparatus (Figs. 19-21 embodiment) having two longitudinally-extending portions (11, 11 in Fig. 1), each having longitudinally extending receptacles (14, 14) on longitudinally-extending sidewalls (13, 13), the longitudinally-extending receptacles (14, 14) for mating with a connector (71), wherein the rightmost longitudinally extending receptacle (14) terminates prior to termination of the longitudinally extending edge (above 16a) so as to allow for nesting of the sidewalls (13, 13).

MASON, III discloses a ground cover mat (110 in Figs. 4 and 5) comprising a panel section (118) on the longitudinally extending floor (114) identifiable by a plurality of seams (see 118) that is selectively removable from the floor (114), wherein when the panel section (118) is removed, the resulting opening in the floor (114) is configured to receive a fence post which extends through the opening (see Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner of BLATTERT by:

(1) replacing the connection system of BLATTERT (i.e., Fig. 3 of BLATTERT shows a connector 32 which functions to connect two of the landscaping channel liners 10, 10 of Fig. 1 in end-to-end abutment) with the connection system of REUM ET AL. (i.e., interlockingly nestable sidewalls 13, 13, cut-out portions of receptacles 14, 14, and interference fit fluid connector 71) in order to be able to provide a simpler to assemble and more cost efficient connection system having less parts and to provide a more secure connection system between adjacent channel liners so that there is less chance of separation at abutted ends (see REUM ET AL., col. 5, lines 37-44 which teaches the desirability of nesting the end portions of the sidewalls to facilitate installation and co-axial alignment of mating sections), while still maintaining the spraying water function of BLATTERT (see water outlets 16 in Fig. 1); and

(2) including a panel section on the longitudinally extending floor having a plurality of score lines or perforation so as to be selectively removable from the floor as taught by MASON, III in order that when the panel section is removed, the resulting opening in the floor of the channel liner is configured to receive a fence post which

extends through the opening so that the landscaping channel liner is usable in lawn having existing posts that the landscaping channel liner must be fit around.

As to claim 9 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 8 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses a receptacle (14 or 15 of BLATTERT) from a second landscaping channel liner (see Fig. 3, wherein BLATTERT discloses a “connector” to connect two landscaping channel liners 10, 10 end-to-end) engages the connector (71 of REUM ET AL.) by fitting between the longitudinally-extending edge (where 14, 15 meet 12, 13, respectively, of BLATTERT) and the connector (71 of REUM ET AL.).

As to claim 10 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 8 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses that the floor of a second landscaping channel liner overlaps a portion of the floor of the landscaping channel liner apparatus.

It is the examiner's position that if the receptacles (14, 15) of the channel (10) of Fig. 1 of BLATTERT were modified by terminating either the left or right ends of the receptacles (14, 15) prior to the corresponding left or right ends of the longitudinally-

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extending sidewalls (12, 13) as taught by REUM ET AL., then the resulting landscape channel liner would inherently or necessarily overlap or nest the floor in addition to the sidewalls.

As to claim 12 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 11 [sic - treated as if dependent upon claim 8] as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses that the seam or perforations or score lines (118 of MASON, III) of the panel section (118 of MASON, III) is perforated (see col. 5, lines 4-28 of MASON, III)

As to claim 13 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 8 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses that the connector (71 of REUM ET AL.) interference fits in the receptacle (14, 14 of REUM ET AL.).

As to claim 16 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 8 as discussed above, and the resulting landscaping channel liner

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from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses the panel section (118 of MASON, III) includes a plurality of interior panel sections (118, 118, . . . of MASON, III) each of which is selectively removable from the floor (114 of MASON, III).

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over BLATTERT (German Patent Application Publication No. DE 35 15 654 A1) in view of REUM ET AL. (U.S. Patent No. 4,761,923) and MASON, III (U.S. Patent No. 5,379,558), as applied to claim 8 above, and further in view of BLOCK ET AL. (U.S. Patent No. 6,446,400).

As to claim 18 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL. and MASON, III discloses the landscaping channel liner of claim 8 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses that the panel section includes a plurality of interior panel sections (118, 118, . . . of Figs. 4-5 of MASON, III) each defined by a plurality of seams (score lines), wherein the seams make the interior panel sections quadrilaterally shaped (see Figs. 4-5 of MASON, III showing quadrilaterally shaped sections).

However, none of BLATTERT, REUM ET AL. and MASON, III explicitly disclose a longitudinally extending seam portion from a seam from each interior panel section forms a coincident seam with one of the seams from the panel section.

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BLOCK ET AL. (see Fig. 5 embodiment) discloses a longitudinally extending seam portion from a seam from each interior panel section forms a coincident seam (leftmost seam near 30 of score patterns 42) with one of the seams from the panel section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner of BLATTERT in view of REUM ET AL. and MASON, III by making the plurality of panel sections have a common perforated edge as taught by BLOCK ET AL. instead of being co-axial as disclosed in MASON, III in order to retain the set-back distance of the post from the edge of the landscaping channel liner, but simply allow for different sizes or diameters of posts.

As to claim 19 (and as best understood despite the 35 U.S.C. § 112 first and second paragraph lack of written description and indefiniteness, respectively, discussed above), BLATTERT in view of REUM ET AL., MASON, III, and BLOCK ET AL. discloses the landscaping channel liner of claim 18 as discussed above, and the resulting landscaping channel liner from the combination of BLATTERT, REUM ET AL. and MASON, III also discloses that the longitudinally-extending floor (114 of MASON, III) comprises a seam (122 of MASON, III) extending from the first transverse open end (left or right end of trough 10 of BLATTERT) to the coincident seam (near 30 of BLOCK ET AL.).

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 6-10, 12, 13, 16, 18, and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571)-272-6842. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

^{GAS}
Gay Ann Spahn, Patent Examiner
February 16, 2007



Cari D. Friedman
Supervisory Patent Examiner
Group 3800


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seam  (sēm) [Pronunciation Key](#)
n.

- a. A line of junction formed by sewing together two pieces of material along their margins.
- b. A similar line, ridge, or groove made by fitting, joining, or lapping together two sections along their edges.
- c. A suture.
- d. A scar.
2. A line across a surface, as a crack, fissure, or wrinkle.
3. A thin layer or stratum, as of coal or rock.

v. **seamed, seam · ing, seams**

v. *tr.*

1. To put together with or as if with a seam.
2. To mark with a groove, wrinkle, scar, or other seamlike line.
3. To form ridges in by purling.

v. *intr.*

1. To become fissured or furrowed; crack open.
2. To purl.

[Middle English *seme*, from Old English *sēam*; see *syū-* in Indo-European roots.]

seam'er *n.*


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seam  (sēm) [Pronunciation Key](#)
A thin layer or stratum, as of coal or rock.